

## REMARKS/ARGUMENTS

By action taken here, Applicant in no way intends to surrender any range of equivalents beyond that needed to patentably distinguish the claimed invention as a whole over the prior art. Applicant expressly reserves all such equivalents that may fall in the range between Applicant's literal claim recitations and combinations taught or suggested by the prior art.

### **I. Introduction**

The Restrictions Requirements mailed December 7, 2005 has been removed in accordance with Examiner's Summary of Interview dated December 7, 2006. The Examiner issued an Office Action on December 6, 2005, which resulted in a second interview with the Examiner on January 3, 2006. Applicant's attorney and the Examiner reached agreement that addition of a limitation regarding placement of the planer surface perpendicular to the inlet (flow) would distinguish over the art of record. Accordingly, Claims 1, 10 and 15 were amended to recite that the planer surface is disposed within the base of the inlet substantially perpendicular to the fluid flow. That amendment incorporated the limitations which were found in allowed claim 24.

A Final Rejection was then entered on February 13, 2006 over two new references. The instant amendment is necessary because of the new references and arguments contained in the Final Action rejecting claims 1-23. Specifically, the Examiner asserts, that, "Applicant's arguments have been considered, but are moot in view of the new ground(s) of rejection."

Applicant respectfully submits that the amended claims, incorporating the limitations of element "(a)" of original claim 24, while structurally more definite, do not add any functional limitations to the independent claims as previously amended.

### **II. Rejection of the Claims**

The Examiner rejected Claims 1-23 under 35 U.S.C. §103(a) as being unpatentable over Bulushek in view of Manning. Specifically, the Examiner states that,

"Bulushek discloses a system for uniformly dispensing a fluidic substance comprising: at least one multi-port manifold 1 having an inlet and at least two exit ports 5 disposed substantially radially of the inlet and having a planar surface disposed in one end of the inlet substantially perpendicular to the inlet proximate the exit ports (the planar surface being defined as the passage between where the water enters the ports 5 to where the water exits the ports); and delivery conduits 2, each in fluid communication with one of the at least two exit ports wherein the fluidic substance flowing into the inlet impinges the planar surface and is radially dispersed as recited."

Buluschek does not disclose a reservoir for retaining the fluidic substance. Manning teaches an irrigation system comprising an irrigation hose 12 connected to a water reservoir via a pump to supply water to the hose 12.”

## II. Arguments

First, this is a new rejection presented on final and, therefore, Final Action in this case is inappropriate. There were no limitations introduced in the last amendment which were not present in the claims as originally filed. Withdrawal of the final rejection is requested. Second, to establish a *prima facie* case of obviousness, the U.S. Patent and Trademark Office must meet three basic criteria. First, the prior art reference (or references when combined), considered as a whole, must teach or suggest all the claimed limitations. Second, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, without the benefit of hindsight afforded by the claimed invention, to modify the reference or to combine reference teachings. Finally, there must be a reasonable expectation of success. *Hodosh v. Block Drug Co., Inc.*, 786 F.2d 1136, 1143 n. 5, 229 U.S.P.Q. 182, 187, n. 5 (Fed. Cir. 1986), MPEP 2141.

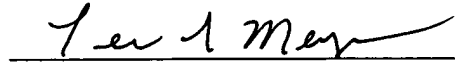
Applicant respectfully submits that the Examiner’s construction of the “Buluschek” is based upon impermissible hindsight reconstruction; and, even if correct, does not yield Applicant’s invention. Buluschek is a “soaker hose” system, wherein a first tube constitutes a primary duct and a second tube disposed around the first tube forms an outer covering. A plurality of longitudinal grooves (passageways) are formed in the first tube and the second tube to form a plurality of separate non-communicating secondary ducts, circumferentially adjacent one another at any circumferential cross-section of the hose, a plurality of spaced inlet ports formed in the first tube and opening into the secondary ducts, and a plurality of outlet ports formed in the second tube and opening out of the secondary ducts. The ducts do not communicate one with the other.

Thus, the outlets are not circumferentially in communication with the inlets. Further, it is contended in the rejection that the exit ports are disposed radially having a planar surface disposed in one end of the inlet substantially perpendicular to the inlet proximate the exit ports (the planar surface being defined as the passage between where the water enters the ports 5 (sic) to where the water exits the ports). First, a passage is a “channel” as defined in the reference, not a planar surface. Second, there is no teaching that the inlet fluid impinges on the planar surface to be uniformly dispersed through the at least two exit ports. In fact, as set forth above, this is physically impossible in that the radially disposed exit ports are not in fluid communication one with the other.

**III. Conclusion**

Claims 24-26 are allowable. They have not been rejected. Claims 1, 10, and 15 have been amended as agreed in the Interview. All claims as amended are in condition for allowance. Entry of this Amendment and allowance of the presented claims is respectfully requested.

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Signature of Practitioner

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